

**NLWJC - KAGAN**

**EMAILS CREATED**

**ARMS - BOX 001 - FOLDER 001**

**[7/21/1995 - 4/23/1996]**

# Withdrawal/Redaction Sheet

## Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Elena Kagan to Bruce Reed at 10:30 re Congratulations (1 page)	07/24/1995	Personal Misfile
002. email	Elena Kagan to Bruce Reed at 11:47 re Congratulations (1 page)	07/24/1995	Personal Misfile
003. email	Elena Kagan to Bruce Reed re Lunch (1 page)	08/01/1995	P6/b(6)
004. email	Elena Kagan to Jennifer Klein and Todd Stern re Dinner (1 page)	10/26/1995	Personal Misfile
005. email	Elena Kagan to Todd Stern and Jennifer Klein at 16:00 re Dinner (1 page)	11/09/1995	Personal Misfile
006. email	Elena Kagan to Todd Stern and Jennifer Klein at 16:13 re Dinner (1 page)	11/09/1995	Personal Misfile
007. email	Elena Kagan to Kumiki Gibson et al at 17:24:00 re Stomp (1 page)	02/14/1996	Personal Misfile
008. email	Elena Kagan to Kumiki Gibson et al at 17:24:50 re Stomp (1 page)	02/14/1996	Personal Misfile
009. email	Elena Kagan to Deborah Fine et al re Change in Meeting (1 page)	03/28/1996	Personal Misfile

### COLLECTION:

Clinton Presidential Records  
Automated Records Management System (Email)  
OPD ([From Elena Kagan])  
OA/Box Number: 250000

### FOLDER TITLE:

[07/21/1995-04/23/1996]

2009-1006-F

kc206

### RESTRICTION CODES

#### Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

#### Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
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- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan ( KAGAN\_E ) (WHO)

CREATION DATE/TIME:21-JUL-1995 08:38:37.92

SUBJECT: RE: Choice Meeting Rescheduled

TO: Ian R. Van Praagh ( VANPRAAGH\_I ) (OPD)

READ:21-JUL-1995 09:03:42.88

TEXT:

I probably won't be able to make the meeting, though I'll try. Thanks.

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2009-1006-F  
kc206

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002. email	Elena Kagan to Bruce Reed at 11:47 re Congratulations (1 page)	07/24/1995	Personal Misfile

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Automated Records Management System (Email)  
OPD ([From Elena Kagan])  
OA/Box Number: 250000

### FOLDER TITLE:

[07/21/1995-04/23/1996]

2009-1006-F  
kc206

### RESTRICTION CODES

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RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan ( KAGAN\_E ) (WHO)

CREATION DATE/TIME: 25-JUL-1995 10:32:01.14

SUBJECT: Choice meetings

TO: Ian R. Van Praagh ( VANPRAAGH\_I ) (OPD)

READ: 25-JUL-1995 13:29:09.38

TEXT:

Though I missed the last choice meeting (because of the Waco hearings), I'd love to be informed of future meetings. Thanks much.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan ( KAGAN\_E ) (WHO)

CREATION DATE/TIME:31-JUL-1995 13:06:08.17

SUBJECT: RE: Choice/Communications Meeting

TO: Ian R. Van Praagh

( VANPRAAGH\_I ) (OPD)

READ:31-JUL-1995 13:06:58.91

TEXT:

yes, i'll be there.

# Withdrawal/Redaction Marker

## Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
003. email	Elena Kagan to Bruce Reed re Lunch (1 page)	08/01/1995	P6/b(6)

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OPD ([From Elena Kagan])  
OA/Box Number: 250000

### FOLDER TITLE:

[07/21/1995-04/23/1996]

2009-1006-F  
kc206

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RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan ( KAGAN\_E ) (WHO)

CREATION DATE/TIME: 1-AUG-1995 15:21:18.83

SUBJECT: RE: Choice/Communicxations Meeting

TO: Ian R. Van Praagh ( VANPRAAGH\_I ) (OPD)

READ: 1-AUG-1995 16:35:46.34

TEXT:

the answer's still yes.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan ( KAGAN\_E ) (WHO)

CREATION DATE/TIME:14-AUG-1995 13:48:59.60

SUBJECT: RE: Choice Meeting

TO: Ian R. Van Praagh

( VANPRAAGH\_I ) (OPD)

READ:14-AUG-1995 14:05:29.02

TEXT:

yes, i'll be there.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan ( KAGAN\_E ) (WHO)

CREATION DATE/TIME:15-SEP-1995 15:22:06.73

SUBJECT: RE: Choice Meeting Rescheduled

TO: Ian R. Van Praagh

( VANPRAAGH\_I ) (OPD)

READ:18-SEP-1995 10:14:07.26

TEXT:

ok with me.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan ( KAGAN\_E ) (WHO)

CREATION DATE/TIME: 6-OCT-1995 17:05:38.05

SUBJECT: misdirected message

TO: Brian E. Burke ( BURKE\_B ) (OPD)

READ:10-OCT-1995 10:32:02.97

TEXT:

Please ignore the last message I sent you. It was meant to go to Dennis Burkner.  
Sorry.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan ( KAGAN\_E ) (WHO)

CREATION DATE/TIME: 6-OCT-1995 16:45:09.95

SUBJECT: cameras in the courtroom

TO: Brian E. Burke

( BURKE\_B ) (OPD)

READ:10-OCT-1995 10:31:54.26

TEXT:

I hear you need a Q&A on cameras in the courtroom. Please see the attached.  
And feel free to call if you have any questions.

===== ATTACHMENT 1 =====

ATT CREATION TIME/DATE: 6-OCT-1995 16:44:00.00

ATT BODYPART TYPE:p

ATT CREATOR: Elena Kagan

TEXT:

===== END ATTACHMENT 1 =====

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan ( KAGAN\_E ) (WHO)

CREATION DATE/TIME:18-OCT-1995 16:59:49.53

SUBJECT: crime bill

TO: Dennis Burke

( BURKE\_D ) (OPD)

READ:18-OCT-1995 18:12:28.82

TEXT:

You're absolutely right: given the amendment to Subtitle A, section 20101 that you highlighted, the AG has no authority to condition grants on the existence of prisoner drug-testing programs. (Perhaps Congress realized how much free-floating authority the old version gave to the AG to condition grants.)

# Withdrawal/Redaction Marker

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OPD ([From Elena Kagan])  
OA/Box Number: 250000

### FOLDER TITLE:

[07/21/1995-04/23/1996]

2009-1006-F  
kc206

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RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan ( KAGAN\_E ) (WHO)

CREATION DATE/TIME: 27-OCT-1995 14:27:51.18

SUBJECT: Bruce's comments

TO: Melinda D. Haskins ( HASKINS\_M ) (OMB)  
READ: 27-OCT-1995 14:33:48.97

TO: Stephen C. Warnath ( WARNATH\_S ) (OPD)  
READ: 27-OCT-1995 14:45:20.71

TO: Bruce N. Reed ( REED\_B ) (WHO)  
READ: 27-OCT-1995 15:36:11.16

TEXT:

I very much agree with the p..2 point. This morning, OLC agreed to drop the sentence starting 'Our concern' and to fix and shorten the parenthetical. But the best thing would be for the paragraph to go entirely. Again, I'm sure OLC will resist.



RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan ( KAGAN\_E ) (WHO)

CREATION DATE/TIME:30-OCT-1995 12:23:37.96

SUBJECT: DOJ letter

TO: Melinda D. Haskins ( HASKINS\_M ) (OMB)  
READ:30-OCT-1995 12:24:48.05

CC: Bruce N. Reed ( REED\_B ) (WHO)  
READ:30-OCT-1995 14:33:49.68

CC: Stephen C. Warnath ( WARNATH\_S ) (OPD)  
READ:30-OCT-1995 12:39:30.93

CC: Kenneth S. Apfel ( APFEL\_K ) (OMB)  
READ:30-OCT-1995 15:30:19.62

TEXT:

I agree with Bruce as to the HHS view on religion and the SSA view on penalties for fraud. Apart from anything else, these are very weak constitutional claims. I also agree with Bruce as to insert A. We took this out because it seemed so weak as to discredit other arguments. I see no reason to put it back in. Insert B seems quite repetitive of the two paragraphs on p. 5. Is that insert supposed to replace those paragraphs? If not, it's not necessary. If so, it seems too brief to me (see my discussion with Steve and Bruce last week.) How about a compromise: delete the first paragraph on p.5; replace it with the first sentence of Insert B; then (in the same, rather than a new, paragraph) replace the first sentence of the second paragraph with the statement "We doubt, however, that such an argument would succeed." And then, continue on with the rest of that paragraph (starting with "First...").

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan ( KAGAN\_E ) (WHO)

CREATION DATE/TIME: 30-OCT-1995 15:26:38.78

SUBJECT: RE: DOJ letter

TO: Stephen C. Warnath ( WARNATH\_S ) (OPD)  
READ: 30-OCT-1995 15:58:24.01

CC: Melinda D. Haskins ( HASKINS\_M ) (OMB)  
READ: 30-OCT-1995 15:27:55.42

CC: Bruce N. Reed ( REED\_B ) (WHO)  
READ: 31-OCT-1995 09:39:44.01

CC: Kenneth S. Apfel ( APFEL\_K ) (OMB)  
READ: 30-OCT-1995 15:29:16.78

TEXT:

1. On the length of the equal protection analysis, I still think we should go with the compromise I proposed. But I wouldn't be terribly upset if someone shortened that yet a little further.
2. On the "caste system" point, Steve has a good point. (You'll remember that I didn't defend this language; I just explained it -- and warned that DOJ might well resist its removal.) As noted before, I'd be perfectly content -- even pleased -- to see this language go.

# Withdrawal/Redaction Marker

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### FOLDER TITLE:

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RECORD TYPE: PRESIDENTIAL (ALL-IN-1 READ RECEIPT)

CREATOR: KAGAN\_E (WHO)

CREATION DATE/TIME:19-DEC-1995 14:03:00.00

SUBJECT: Receipt Notification

TO: SEIDMAN\_E (OPD)

READ:19-DEC-1995 15:10:39.43

TEXT:

This is a Read Receipt Notification for:

Message Title:       Securities litigation memo  
Addressee:           KAGAN\_E  
Date Sent:           19-Dec-1995 01:50pm  
Date Read:           19-Dec-1995 02:03pm

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan ( KAGAN\_E ) (WHO)

CREATION DATE/TIME:18-JAN-1996 16:43:16.77

SUBJECT: RE: Callback

TO: Dennis Burke

( BURKE\_D ) (OPD)

READ:18-JAN-1996 17:14:40.22

TEXT:

No problem. I've had a discussion with Ed Jurith, in which I told him I thought he was wrong. He said he wants to get me some other materials (among them, a First Circuit case). Give me a call when you're free tomorrow.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan ( KAGAN\_E ) (WHO)

CREATION DATE/TIME:19-JAN-1996 13:32:57.99

SUBJECT: franking

TO: Paul J. Weinstein, Jr ( WEINSTEIN\_P ) (OPD)

READ:19-JAN-1996 13:34:48.72

TEXT:

The bottom line is that both OLC and I would feel perfectly comfortable defending the constitutionality of your franking proposal. There are a couple of litigation risks, and there may be ways to frame the proposal so as to minimize those risks. Give me a call when you have time, and we'll discuss.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan ( KAGAN\_E ) (WHO)

CREATION DATE/TIME:19-JAN-1996 11:32:49.44

SUBJECT: RE: drugs

TC: Dennis Burke

( BURKE\_D ) (OPD)

READ:19-JAN-1996 11:54:47.05

TEXT:

Let's say Monday at 10:00.



RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan ( KAGAN\_E ) (WHO)

CREATION DATE/TIME:19-JAN-1996 10:17:56.83

SUBJECT: drugs

TO: Dennis Burke

( BURKE\_D ) (OPD)

READ:19-JAN-1996 11:28:24.99

TEXT:

Can we set up a time to discuss this scheduling issue? I take it your event is taking place today; will you be free afterwards? Thanks.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan ( KAGAN\_E ) (WHO)

CREATION DATE/TIME: 24-JAN-1996 08:45:20.48

SUBJECT: congratulations!

TO: Michael Waldman

( WALDMAN\_M ) (OPD)

READ: 24-JAN-1996 13:01:12.92

TEXT:

A really great job.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan ( KAGAN\_E ) (WHO)

CREATION DATE/TIME:30-JAN-1996 15:58:00.52

SUBJECT: meeting

TO: Deborah L. Fine

( FINE\_D ) (OPD)

READ:30-JAN-1996 16:59:06.10

TEXT:

Monday at 10 sounds good to me.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 READ RECEIPT)

CREATOR: KAGAN\_E (WHO)

CREATION DATE/TIME:30-JAN-1996 18:29:00.00

SUBJECT: Receipt Notification

TO: SEIDMAN\_E (OPD)

READ:30-JAN-1996 18:46:23.58

TEXT:

This is a Read Receipt Notification for:

Message Title: Products  
Addressee: KAGAN\_E  
Date Sent: 30-Jan-1996 04:52pm  
Date Read: 30-Jan-1996 06:29pm

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan ( KAGAN\_E ) (WHO)

CREATION DATE/TIME:31-JAN-1996 15:45:12.42

SUBJECT: RE: meeting with Kathryn Kolbert

TO: Deborah L. Fine ( FINE\_D ) (OPD)

READ:31-JAN-1996 15:45:52.44

TEXT:

I'll be there.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 READ RECEIPT)

CREATOR: KAGAN\_E (WHO)

CREATION DATE/TIME: 1-FEB-1996 07:55:00.00

SUBJECT: Receipt Notification

TO: WEINSTEIN\_P (OPD)

READ: 1-FEB-1996 10:00:46.14

TEXT:

This is a Read Receipt Notification for:

Message Title: Draft of POTUS Memo  
Addressee: KAGAN\_E  
Date Sent: 31-Jan-1996 08:11pm  
Date Read: 01-Feb-1996 07:55am

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan ( KAGAN\_E ) (WHO)

CREATION DATE/TIME: 1-FEB-1996 08:06:45.05

SUBJECT: RE: Draft of POTUS Memo

TO: Paul J. Weinstein, Jr

( WEINSTEIN\_P ) (OPD)

READ: 1-FEB-1996 10:00:33.59

TEXT:

I got your memo; many thanks. There's absoutely no reason why my name should be at the top of the memo, so you should take it off. Which doesn't mean I don't think this a good memo; I do. But you did the work, so you should get the credit. Otherwise, I do think the recommendation section should be enhanced, with some discussion of both politics and policy. Thanks again, and send me the next (or final) draft.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan ( KAGAN\_E ) (WHO)

CREATION DATE/TIME: 5-FEB-1996 18:54:45.77

SUBJECT: RE: pol meeting

TO: Paul J. Weinstein, Jr

( WEINSTEIN\_P ) (OPD)

READ: 6-FEB-1996 09:32:35.45

TEXT:

Until 2 and after 4:30. Thanks.



RECORD TYPE: PRESIDENTIAL (ALL-IN-1 READ RECEIPT)

CREATOR: KAGAN\_E (WHO)

CREATION DATE/TIME: 5-FEB-1996 18:54:00.00

SUBJECT: Receipt Notification

TO: WEINSTEIN\_P (OPD)

READ: 6-FEB-1996 09:32:42.28

TEXT:

This is a Read Receipt Notification for:

Message Title: pol meeting  
Addressee: KAGAN\_E  
Date Sent: 05-Feb-1996 06:53pm  
Date Read: 05-Feb-1996 06:54pm

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 READ RECEIPT)

CREATOR: KAGAN\_E (WHO)

CREATION DATE/TIME: 6-FEB-1996 10:07:00.00

SUBJECT: Receipt Notification

TO: WEINSTEIN\_P (OPD)

READ: 6-FEB-1996 14:09:19.00

TEXT:

This is a Read Receipt Notification for:

Message Title: pol meetin  
Addressee: KAGAN\_E  
Date Sent: 06-Feb-1996 09:34am  
Date Read: 06-Feb-1996 10:07am

# Withdrawal/Redaction Marker

## Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
007. email	Elena Kagan to Kumiki Gibson et al at 17:24:00 re Stomp (1 page)	02/14/1996	Personal Misfile

### COLLECTION:

Clinton Presidential Records  
Automated Records Management System (Email)  
OPD ([From Elena Kagan])  
OA/Box Number: 250000

### FOLDER TITLE:

[07/21/1995-04/23/1996]

2009-1006-F

kc206

### RESTRICTION CODES

#### Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]  
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]  
P3 Release would violate a Federal statute [(a)(3) of the PRA]  
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]  
P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]  
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

#### Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]  
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]  
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]  
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]  
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]  
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]  
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]  
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

# Withdrawal/Redaction Marker

## Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
008. email	Elena Kagan to Kumiki Gibson et al at 17:24:50 re Stomp (1 page)	02/14/1996	Personal Misfile

### COLLECTION:

Clinton Presidential Records  
Automated Records Management System (Email)  
OPD ([From Elena Kagan])  
OA/Box Number: 250000

### FOLDER TITLE:

[07/21/1995-04/23/1996]

2009-1006-F  
kc206

### RESTRICTION CODES

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P2 Relating to the appointment to Federal office [(a)(2) of the PRA]  
P3 Release would violate a Federal statute [(a)(3) of the PRA]  
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b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]  
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]  
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]  
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]  
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 READ RECEIPT)

CREATOR: KAGAN\_E (WHO)

CREATION DATE/TIME:14-FEB-1996 15:38:00.00

SUBJECT: Receipt Notification

TO: WEINSTEIN\_P (OPD)

READ:14-FEB-1996 15:57:06.41

TEXT:

This is a Read Receipt Notification for:

Message Title: ICKES MEMO  
Addressee: KAGAN\_E  
Date Sent: 14-Feb-1996 02:06pm  
Date Read: 14-Feb-1996 03:38pm

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 READ RECEIPT)

CREATOR: KAGAN\_E (WHO)

CREATION DATE/TIME:15-FEB-1996 14:49:00.00

SUBJECT: Receipt Notification

TO: WEINSTEIN\_P (OPD)

READ:15-FEB-1996 14:54:50.43

TEXT:

This is a Read Receipt Notification for:

Message Title: Pol Memo  
Addressee: KAGAN\_E  
Date Sent: 15-Feb-1996 01:57pm  
Date Read: 15-Feb-1996 02:49pm

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 READ RECEIPT)

CREATOR: KAGAN\_E (WHO)

CREATION DATE/TIME: 20-FEB-1996 08:37:00.00

SUBJECT: Receipt Notification

TO: WEINSTEIN\_P (OPD)

READ: 20-FEB-1996 10:48:57.41

TEXT:

This is a Read Receipt Notification for:

Message Title: Meeting to discuss congressional strategy

Addressee: KAGAN\_E

Date Sent: 16-Feb-1996 03:55pm

Date Read: 20-Feb-1996 08:37am

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 READ RECEIPT)

CREATOR: KAGAN\_E (WHO)

CREATION DATE/TIME: 22-FEB-1996 13:13:00.00

SUBJECT: Receipt Notification

TO: WEINSTEIN\_P (OPD)

READ: 22-FEB-1996 13:14:34.89

TEXT:

This is a Read Receipt Notification for:

Message Title: Ickes Memo  
Addressee: KAGAN\_E  
Date Sent: 22-Feb-1996 01:12pm  
Date Read: 22-Feb-1996 01:13pm



RECORD TYPE: PRESIDENTIAL (ALL-IN-1 READ RECEIPT)

CREATOR: KAGAN\_E (WHO)

CREATION DATE/TIME: 23-FEB-1996 18:29:00.00

SUBJECT: Receipt Notification

TO: WEINSTEIN\_P (OPD)

READ: 23-FEB-1996 18:30:46.81

TEXT:

This is a Read Receipt Notification for:

Message Title: Campaign Finance Reform Principles

Addressee: KAGAN\_E

Date Sent: 23-Feb-1996 06:25pm

Date Read: 23-Feb-1996 06:29pm

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan ( KAGAN\_E ) (WHO)

CREATION DATE/TIME: 4-MAR-1996 10:07:52.09

SUBJECT: RE: treasury postal

TO: Deborah L. Fine ( FINE\_D ) (OPD)

READ: 4-MAR-1996 10:54:16.13

CC: Jennifer L. Klein ( KLEIN\_J ) (OPD)

READ: 4-MAR-1996 11:22:25.94

TEXT:

Yes. Let's say Thursday at 4:00.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan ( KAGAN\_E ) (WHO)

CREATION DATE/TIME: 7-MAR-1996 15:38:59.00

SUBJECT: meeting

TO: Jennifer L. Klein ( KLEIN\_J ) (OPD)

READ: 7-MAR-1996 16:30:51.76

TO: Deborah L. Fine ( FINE\_D ) (OPD)

READ: 7-MAR-1996 15:40:03.43

TEXT:

I'm really sorry about this, but could we postpone our meeting until tomorrow?  
(I just got handed an emergency project.) I'm free between 10 and 11 in the  
morning, and anytime in the afternoon.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan ( KAGAN\_E ) (WHO)

CREATION DATE/TIME: 9-MAR-1996 18:24:24.60

SUBJECT: line item veto

TO: Paul J. Weinstein, Jr ( WEINSTEIN\_P ) (OPD)

READ:11-MAR-1996 11:31:35.71

TEXT:

Could you call me re the line item veto? Many thanks.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 READ RECEIPT)

CREATOR: KAGAN\_E (WHO)

CREATION DATE/TIME:12-MAR-1996 10:37:00.00

SUBJECT: Receipt Notification

TO: WEINSTEIN\_P (OPD)

READ:12-MAR-1996 10:38:02.81

TEXT:

This is a Read Receipt Notification for:

Message Title:	Line-Item
Addressee:	KAGAN_E
Date Sent:	12-Mar-1996 10:12am
Date Read:	12-Mar-1996 10:37am

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 READ RECEIPT)

CREATOR: KAGAN\_E (WHO)

CREATION DATE/TIME:14-MAR-1996 11:00:00.00

SUBJECT: Receipt Notification

TO: SEIDMAN\_E (OPD)

READ:14-MAR-1996 11:08:18.04

TEXT:

This is a Read Receipt Notification for:

Message Title:       prodcuts problems  
Addressee:           KAGAN\_E  
Date Sent:           14-Mar-1996 10:42am  
Date Read:           14-Mar-1996 11:00am

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan ( KAGAN\_E ) (WHO)

CREATION DATE/TIME:14-MAR-1996 14:45:46.57

SUBJECT: latest version of statement on products

TO: Jon Yarowsky ( YAROWSKY\_J ) (WHO)  
READ:28-MAR-1996 18:34:00.39

TO: Ellen S. Seidman ( SEIDMAN\_E ) (OPD)  
READ:14-MAR-1996 14:46:38.08

TO: Sally Katzen ( KATZEN\_S ) (OMB)  
READ:14-MAR-1996 15:44:58.69

TO: James J. Jukes ( JUKES\_J ) (OMB)  
READ:14-MAR-1996 15:29:14.53

TEXT:

===== ATTACHMENT 1 =====

ATT CREATION TIME/DATE:14-MAR-1996 14:44:00.00

ATT BODYPART TYPE:p

ATT CREATOR: Elena Kagan

TEXT:

PRINTER FONT 12\_POINT COURIER

2. Services and compliance activities: Among other services, the team shall provide creative, production and time buying services for paid television and radio advertisements as requested and as directed by the Re

□

-elect and by the DNC,  
respectively.

In order to ensure full compliance with the FEC regulations, the Team shall establish systems and procedures to meet all requirements of the FEC in this regard as well as the guidelines issue from time to time by the General Counsels of the Re

□

-elect  
and the DNC.

In addition, the attached schedule from Squier/Knapp shall be part of any agreement.

===== END ATTACHMENT 1 =====

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 READ RECEIPT)

CREATOR: KAGAN\_E (WHO)

CREATION DATE/TIME:14-MAR-1996 11:21:00.00

SUBJECT: Receipt Notification

TO: SEIDMAN\_E (OPD)

READ:14-MAR-1996 11:22:14.99

TEXT:

This is a Read Receipt Notification for:

Message Title: One more thing on products  
Addressee: KAGAN\_E  
Date Sent: 14-Mar-1996 11:15am  
Date Read: 14-Mar-1996 11:21am



RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan ( KAGAN\_E ) (WHO)

CREATION DATE/TIME:14-MAR-1996 13:02:58.99

SUBJECT: new version

TO: Jon Yarowsky ( YAROWSKY\_J ) (WHO)  
READ:28-MAR-1996 18:34:10.97

TO: Ellen S. Seidman ( SEIDMAN\_E ) (OPD)  
READ:14-MAR-1996 13:51:33.69

TO: Sally Katzen ( KATZEN\_S ) (OMB)  
READ:14-MAR-1996 15:22:00.82

TO: James J. Jukes ( JUKES\_J ) (OMB)  
READ:14-MAR-1996 14:57:37.29

TEXT:

PRINTER FONT 12\_POINT\_COURIER

The Administration opposes, and the President will veto, the Conference Report on H.R. 956 in its current form.

The Administration would support the enactment of limited but meaningful product liability reform at the federal level. Any legislation, however, must fairly balance the interests of consumers with those of manufacturers and sellers. Further, any legislation must respect the important role of the states in our federal system. The Conference Report fails to meet these requirements. On the basis of a distorted set of findings, which for example fails to recognize that the current increase in litigation is attributable to commercial suits between corporations rather than consumer

□

-initiated product liability actions, H.R. 956 sweeps too broadly in overhauling the product liability system.

As a general matter, product liability reform is the responsibility and prerogative of the states, rather than of Congress. This is an area in which states have served as laboratories, testing and developing new ideas and making needed reforms. As in other spheres of government, proponents of federal restrictions on traditional state prerogatives bear the burden of persuasion in justifying new federal intervention. For several provisions in particular, noted below, this burden has not been met.

Moreover, the Conference Report unfairly tilts the legal playing field to the disadvantage of consumers. Many provisions of H.R. 956, such as those dealing with punitive damages and the statute of repose, displace state law only when that law is more favorable to the consumer; when state law is more favorable to manufacturers and sellers, it remains in operation. This

"one

□

-way preemption" too greatly shifts the balance away from consumers. So too do several specific provisions, noted below, that would impede the ability of injured persons to gain fair and adequate recovery.

In particular, the Administration opposes Section 108, which imposes an artificial ceiling on the amount of punitive damages

that may be awarded in a products liability action. As the Administration has previously stated, statutory caps are improper because they ignore the fundamental purpose of punitive awards: to punish and deter. The so

□  
-called additur provision, allowing judges to exceed the ceiling in certain rare circumstances, does not solve this problem, especially given the gloss given to that provision in the Statement of Managers, which says that

"occasions for additional awards will be very limited indeed." Section 108 invites a wealthy potential wrongdoer to weigh the risks of a capped punitive award against the potential gains or profits from the wrongdoing.

The Administration also opposes Section 110, which would abolish joint

□  
-and

□  
-several liability for noneconomic damages (most notably, pain and suffering). This provision would severely and unfairly discriminate against those innocent victims who suffer mostly noneconomic damages, including elderly citizens and others with little future income. Noneconomic damages are as real and as important to victims as economic damages; those who suffer such damages, like all other victims, should not have to bear the burden of rounding up every conceivable defendant; neither should they suffer if one defendant has gone bankrupt.

In addition, the Conference Report takes a large step backward from the Senate version in deleting a provision that would have tolled the statute of limitations in the event of a stay or injunction against an action. Such a provision is critical when a potential defendant goes bankrupt, as recently happened in cases involving asbestos and the dalkon shield. In such a case, the bankruptcy court will issue a stay pending the completion of its proceedings; if the statute of limitations is not tolled, many injured persons will lose their claims.

Finally, the Conference Report completely fails to address one significant problem: the increasingly familiar situation of a foreign national who is unavailable to receive process for a defective product put in the stream of commerce in the United States. A fair system of justice would ensure that foreign manufacturers are held to the same high standard of responsibility as are domestic manufacturers.

The Conference Report includes some good and useful provisions. In particular, Title II is a laudable attempt to ensure that suppliers of biomaterials will provide sufficient quantities of their products to manufacturers of medical devices. The Administration is committed to working with Congress to address this issue.

The President, however, will have to veto the Conference Report, if presented to him in its present form, because of its provisions on punitive damages and non

□  
-economic damages, both of which interfere unduly with state prerogatives and unfairly skew the legal playing field away from consumers.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan ( KAGAN\_E ) (WHO)

CREATION DATE/TIME:18-MAR-1996 12:19:53.98

SUBJECT: RE: Product Liability Veto Message

TO: Ellen S. Seidman ( SEIDMAN\_E ) (OPD)  
READ:18-MAR-1996 12:37:52.80

CC: James J. Jukes ( JUKES\_J ) (OMB)  
READ:18-MAR-1996 13:11:46.26

CC: James C. Murr ( MURR\_J ) (OMB)  
READ:18-MAR-1996 14:26:00.59

CC: Jeffrey A. Weinberg ( WEINBERG\_J ) (OMB)  
READ:18-MAR-1996 12:20:06.14

TEXT:  
I agree with Ellen.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan ( KAGAN\_E ) (WHO)

CREATION DATE/TIME:18-MAR-1996 09:26:15.99

SUBJECT: products

TO: Ellen S. Seidman ( SEIDMAN\_E ) (OPD)

READ:18-MAR-1996 09:26:51.54

TEXT:

Looks good. I asked Jack whether there was anything left to be done. He said no.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 READ RECEIPT)

CREATOR: KAGAN\_E (WHO)

CREATION DATE/TIME:18-MAR-1996 09:23:00.00

SUBJECT: Receipt Notification

TO: SEIDMAN\_E (OPD)

READ:18-MAR-1996 09:26:49.87

TEXT:

This is a Read Receipt Notification for:

Message Title: Products points  
Addressee: KAGAN\_E  
Date Sent: 18-Mar-1996 09:14am  
Date Read: 18-Mar-1996 09:23am

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan ( KAGAN\_E ) (WHO)

CREATION DATE/TIME:19-MAR-1996 17:11:46.26

SUBJECT: RE: Memo from Kathy Wallman

TO: Odetta S. Walker ( WALKER\_O ) (WHO)

READ:19-MAR-1996 17:14:22.01

TEXT:

Odetta: Could you let Kathy know that I think she already assigned me (1) (it sounds a lot like the stuff that Harriet Rabb has been talking about), though if she wants to reassign it, she should feel free to. Thanks. Elena

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 READ RECEIPT)

CREATOR: KAGAN\_E (WHO)

CREATION DATE/TIME:19-MAR-1996 11:37:00.00

SUBJECT: Receipt Notification

TO: SEIDMAN\_E (OPD)

READ:19-MAR-1996 14:43:18.21

TEXT:

This is a Read Receipt Notification for:

Message Title: Elena, the meachine's not working. Is this readable?  
Addressee: KAGAN\_E  
Date Sent: 19-Mar-1996 11:36am  
Date Read: 19-Mar-1996 11:37am

RECORD TYPE: PRESIDENTIAL (EXTERNAL MAIL)

CREATOR: KAGAN\_E@A1@CD

CREATION DATE/TIME: 25-MAR-1996 14:45:00.00

SUBJECT: RE: SAT NIGHT

TO: CN=Kumiki S. Gibson/O=OVP  
READ: NOT READ

( CN=Kumiki S. Gibson/O=OVP@OVP@LNGATE@EOPMRX )

CC: WHALEN\_K  
READ: 25-MAR-1996 14:46:29.81

( WHALEN\_K@A1@CD ) (WHO)

CC: KRISLOV\_M  
READ: 25-MAR-1996 14:46:41.46

( KRISLOV\_M@A1@CD ) (WHO)

CC: CN=Sheryll Cashin/O=OVP  
READ: NOT READ

( CN=Sheryll Cashin/O=OVP@OVP@LNGATE@EOPMRX )

CC: WARNATH\_S  
READ: 25-MAR-1996 14:57:38.68

( WARNATH\_S@A1@CD ) (OPD)

TEXT:

I vote for AVs.



RECORD TYPE: PRESIDENTIAL (ALL-IN-1 READ RECEIPT)

CREATOR: KAGAN\_E (WHO)

CREATION DATE/TIME: 27-MAR-1996 11:34:00.00

SUBJECT: Receipt Notification

TO: WEINSTEIN\_P (OPD)

READ: 27-MAR-1996 11:38:26.35

TEXT:

This is a Read Receipt Notification for:

Message Title: Hill Meetings  
Addressee: KAGAN\_E  
Date Sent: 27-Mar-1996 11:30am  
Date Read: 27-Mar-1996 11:34am

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 READ RECEIPT)

CREATOR: KAGAN\_E (WHO)

CREATION DATE/TIME: 27-MAR-1996 11:33:00.00

SUBJECT: Receipt Notification

TO: WEINSTEIN\_P (OPD)

READ: 27-MAR-1996 11:36:11.21

TEXT:

This is a Read Receipt Notification for:

Message Title: common cause meeting

Addressee: KAGAN\_E

Date Sent: 27-Mar-1996 11:28am

Date Read: 27-Mar-1996 11:33am

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan ( KAGAN\_E ) (WHO)

CREATION DATE/TIME: 28-MAR-1996 13:54:34.39

SUBJECT: RE: CHANGE IN MEETING

TO: Deborah L. Fine ( FINE\_D ) (OPD)  
READ: 28-MAR-1996 13:54:38.94

CC: Jeremy D. Benami ( BENAMI\_J ) (WHO)  
READ: 28-MAR-1996 16:46:29.69

CC: Jennifer L. Klein ( KLEIN\_J ) (OPD)  
READ: 28-MAR-1996 14:24:21.46

CC: Dorothy L. Karayannis ( KARAYANNIS\_D ) (OPD)  
READ: 28-MAR-1996 15:33:51.40

TEXT:  
Late Tuesday is fine with me.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan ( KAGAN\_E ) (WHO)

CREATION DATE/TIME: 28-MAR-1996 18:02:27.54

SUBJECT: RE: CHANGE IN MEETING

TO: Dorothy L. Karayannis ( KARAYANNIS\_D ) (OPD)  
READ: 29-MAR-1996 13:43:05.68

CC: Deborah L. Fine ( FINE\_D ) (OPD)  
READ: 28-MAR-1996 18:02:33.43

CC: Jennifer L. Klein ( KLEIN\_J ) (OPD)  
READ: 28-MAR-1996 18:02:53.80

CC: Jeremy D. Benami ( BENAMI\_J ) (WHO)  
READ: 28-MAR-1996 18:07:30.75

TEXT:  
after 2:00.

# Withdrawal/Redaction Marker

## Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
009. email	Elena Kagan to Deborah Fine et al re Change in Meeting (1 page)	03/28/1996	Personal Misfile

### COLLECTION:

Clinton Presidential Records  
Automated Records Management System (Email)  
OPD ([From Elena Kagan])  
OA/Box Number: 250000

### FOLDER TITLE:

[07/21/1995-04/23/1996]

2009-1006-F  
kc206

### RESTRICTION CODES

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- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

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PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

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- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
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- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan ( KAGAN\_E ) (WHO)

CREATION DATE/TIME: 28-MAR-1996 07:27:40.32

SUBJECT: meeting

TO: Jeremy D. Benami ( BENAMI\_J ) (WHO)  
READ: 28-MAR-1996 10:12:20.47

TO: Jennifer L. Klein ( KLEIN\_J ) (OPD)  
READ: 28-MAR-1996 08:55:06.37

TO: Deborah L. Fine ( FINE\_D ) (OPD)  
READ: 28-MAR-1996 09:25:38.73

TO: Betsy Myers ( MYERS\_B ) (WHO)  
READ: 29-MAR-1996 10:05:06.33

TO: Dorothy L. Karayannis ( KARAYANNIS\_D ) (OPD)  
READ: 28-MAR-1996 08:26:38.74

TEXT:  
Anytime Wednesday after 11:30 is fine with me.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan ( KAGAN\_E ) (WHO)

CREATION DATE/TIME: 1-APR-1996 15:17:00.31

SUBJECT: meeting

TO: Dorothy L. Karayannis ( KARAYANNIS\_D ) (OPD)

READ: 1-APR-1996 15:30:46.86

TEXT:

anytime after 10. thanks.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan ( KAGAN\_E ) (WHO)

CREATION DATE/TIME: 2-APR-1996 15:39:50.27

SUBJECT: bank case

TO: Ellen S. Seidman

( SEIDMAN\_E ) (OPD)

READ: 2-APR-1996 17:04:20.76

TEXT:

could you send me a copy? many thanks.



RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan ( KAGAN\_E ) (WHO)

CREATION DATE/TIME: 8-APR-1996 12:28:22.54

SUBJECT: meeting

TO: Jennifer L. Klein

( KLEIN\_J ) (OPD)

READ: 8-APR-1996 13:37:56.45

TEXT:

tomorrow at 3:00; my office

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan ( KAGAN\_E ) (WHO)

CREATION DATE/TIME: 9-APR-1996 12:41:28.90

SUBJECT: op eds

TO: Jennifer L. Klein ( KLEIN\_J ) (OPD)

READ: 9-APR-1996 12:52:26.12

TEXT:

Let me know when you've read the op eds. I'd like to talk with you about which should be included -- and also who should be invited.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan ( KAGAN\_E ) (WHO)

CREATION DATE/TIME:10-APR-1996 12:50:51.52

SUBJECT: RE: addendum

TO: Deborah L. Fine ( FINE\_D ) (OPD)

READ:10-APR-1996 12:51:42.87

TEXT:

all of this is aok with me. Who is the doctor?

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan ( KAGAN\_E ) (WHO)

CREATION DATE/TIME:17-APR-1996 15:41:25.80

SUBJECT: RE: English-only

TO: Stephen C. Warnath ( WARNATH\_S ) (OPD)

READ:17-APR-1996 15:42:04.10

TEXT:

whatever you think would be helpful would be great.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan ( KAGAN\_E ) (WHO)

CREATION DATE/TIME:18-APR-1996 18:28:40.01

SUBJECT: RE: talking points

TO: Deborah L. Fine ( FINE\_D ) (OPD)

READ:18-APR-1996 18:32:35.26

TEXT:

many thanks.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 READ RECEIPT)

CREATOR: KAGAN\_E (WHO)

CREATION DATE/TIME: 23-APR-1996 19:00:00.00

SUBJECT: Receipt Notification

TO: WEINSTEIN\_P (OPD)

READ: 24-APR-1996 09:51:14.72

TEXT:

This is a Read Receipt Notification for:

Message Title: Campaign Finance Reform

Addressee: KAGAN\_E

Date Sent: 23-Apr-1996 05:34pm

Date Read: 23-Apr-1996 07:00pm